Issuance Date: March 28, 2006
Effective Date: April 1, 2006
Expiration Date: March 28, 2011

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
WASTE DISCHARGE PERMIT No. WA-003211-5

State of Washington
DEPARTMENT OF ECOLOGY
Northwest Regional Office
3190 – 160th Avenue SE
Bellevue, WA 98008-5452

In compliance with the provisions of
The State of Washington Water Pollution Control Law
Chapter 90.48 Revised Code of Washington
and
The Federal Water Pollution Control Act
(The Clean Water Act)
Title 33 United States Code, Section 1251 et seq.

**WASHINGTON STATE DEPARTMENT OF TRANSPORTATION**
Northwest Region
15700 Dayton Avenue North, Mail Stop 138
Seattle, Washington 98133-9710

| Site Location:<br>SR 539 (Guide Meridian) milepost 1.64 to milepost 6.26<br>PARTLY IN BELLINGHAM,<br>PARTLY IN WHATCOM COUNTY | Industry Type:<br>Highway Construction |
|---|---|
| Receiving Waters: *****All are Class A waters***** | Waterbody I.D. No.: |
| Stream 0553 (tributary to Squalicum Creek) | None |
| Stream 0143 (tributary to Silver Creek) | None |
| Deer Creek | 122560348877 |
| Tenmile Creek | 1225759488563 |
| Fourmile Creek | 1224863488674 |

is authorized to discharge in accordance with the Special and General Conditions which follow.

Kevin C. Fitzpatrick
Water Quality Section Manager
Northwest Regional Office
Washington State Department of Ecology

Project outfalls and receiving waters list.

| Outfalls & Stream Information for Project<br>Coordinates in Decimal Degrees<br>(NAD 83/WGS 84 Datum) | | | | | | |
|---|---|---|---|---|---|---|
| **Outfall #** | **Latitude** | **Longitude** | **Description** | **Basin[1]** | **Receiving Water Name** | **Q[2] (CFS)** |
| 012 | 48.80787 | -122.48811 | Detention pond outfall | Horton | Stream 0553 | 1.09 |
| 004 | 48.81140 | -122.48748 | Detention pond outfall | South Waldron | Stream 0553 | 0.81 |
| 001 | 48.81183 | -122.48618 | Detention pond outfall | North Waldron | Stream 0553 | 1.59 |
| 031 | 48.81882 | -122.48609 | Detention pond outfall | Kelly Road | Tributary to stream 0143 | 0.88 |
| 003 | 48.82224 | -122.48609 | Detention pond outfall | 4+413 | Stream 0143 | 1.08 |
| 002 | 48.82606 | -122.48653 | Detention pond outfall | Larson | Stream 0143 | 2.17 |
| 032 | 48.82647 | -122.48593 | New cross culvert under roadway | Larson | Stream 0143 | est. 2 |
| 013 | 48.83314 | -122.48715 | Detention pond outfall | Smith | Silver Creek | 1.02 |
| 005 | 48.84414 | -122.48604 | Two detention pond outfalls: one south, one north of Deer Creek | Deer Creek | Deer Creek | 5.83 |
| 006 | 48.86706 | -122.48596 | Detention pond outfall | Tenmile | Tenmile Creek | 3.2 |
| 007 | 48.86806 | -122.48589 | Detention pond outfall | Fourmile | Fourmile Creek | 3.2 |
| 008 | 48.86814 | -122.47034 | Downstream of Sterk wetland creation site | NA | Tenmile Creek | NA |
| 011 | 48.86633 | -122.47049 | Downstream of Sterk wetland creation site | NA | Tributary to Tenmile Creek | NA |

[1] Basin is the designation by WSDOT project designers in the SR 539 Horton Road to Tenmile Road Supplemental Hydraulic Report (December 12, 2003) for calculating stormwater treatment requirements in Threshold Discharge Area in the project. 008 and 011 are related to a wetland creation site, and the project is not required to provide those calculations for these locations.

[2] Q refers to a design flow calculated for the treatment facility tributary to the outfall. The design flow here is the maximum flow expected to occur once every two years and is provided for comparison. Actual flows will vary depending on rainfall intensity, duration, and ground saturation.

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## GENERAL CONDITIONS



**Appendix A – Definitions**

## SUMMARY OF SCHEDULED PERMIT REPORT SUBMITTALS

| Permit Section | Submittal | Frequency | First Submittal Date |
|---|---|---|---|
| S4.A. | High (250 NTU) Turbidity Phone Reporting | As necessary | |
| S4.B. | Discharge Monitoring Report | Monthly | 15 days after the first month of construction |
| S4.F. | Noncompliance Notification | As necessary | No later than 5 days after event |
| S4.G. | Permit Termination | Once | After final stabilization is complete |
| S6.B. | Stormwater Pollution Prevention Plan | Once | 30 days prior to the start of construction |
| G2.B. | Designation of Report Signature Authority | Once | No later than first submittal of any report |
| G2.C. | Notice of Change in Authorization | As necessary | |

## SPECIAL CONDITIONS

### S1. DISCHARGE LIMITATIONS

Beginning on the effective date of this permit and lasting through the expiration date, the Permittee, including the successful bidder(s) for the contract(s) for the project, is authorized to discharge storm water, ground water, and chlorine-free potable water (referred to collectively as effluent) as specified here into streams (and associated drainage areas) listed on the cover page. The Permittee shall maintain natural stormwater discharge patterns to wetlands unless the wetland is designated for complete loss due to construction.

A. Authorized Discharges

1. Stormwater Associated With Construction Activity. Subject to compliance with the terms and conditions of this permit, the Permittee is authorized to discharge storm water associated with construction activity to surface waters of the state or to a storm drain system that drains to surface waters of the state.

2. Stormwater Associated With Construction Support Activity. This permit also authorizes stormwater discharges from support activities related to the permitted construction site (e.g., off-site equipment staging yards, material storage areas, borrow areas, etc.) provided:

   a. The support activity is directly related to the permitted construction site that is required to have an NPDES permit; and

   b. The support activity is not a commercial operation serving multiple unrelated construction projects, and does not operate beyond the completion of the construction activity; and

   c. Appropriate controls and measures are identified in the *Stormwater Pollution Prevention Plan* (SWPPP) for the discharges from the support activity areas.

3. Non-Stormwater Discharges. The categories and sources of non-stormwater discharges identified below are conditionally authorized, provided the discharge is consistent with the terms and conditions of this permit:

   a. Discharges from fire fighting activities;
   b. Fire hydrant system flushing;
   c. Potable water including uncontaminated water line flushing (dechlorinated);
   d. Pipeline hydrostatic test water;
   e. Uncontaminated air conditioning or compressor condensate;
   f. Uncontaminated ground water or spring water;
   g. Uncontaminated excavation dewatering (in accordance with S6.D.10);
   h. Uncontaminated discharges from foundation or footing drains;
   i. Water used to control dust;
   j. Routine external building wash down that does not use detergents; and
   k. Landscape irrigation.

All authorized non-stormwater discharges, except for discharges from fire fighting activities, shall be adequately addressed in the SWPPP and comply with Special Condition S2.

B. Discharge Prohibitions

Direct discharge of process wastewater to surface water is prohibited. Process wastewater includes, but is not limited to: concrete wash water, truck wash water, tire bath wastewater, wheel wash water, equipment wash water, petroleum products, and chemical wastes. The SWPPP shall include provisions for process wastewater sources, handling, and disposal.

This permit does not authorize illicit discharges, including spills of oil or hazardous substances, nor does it relieve entities from obligations under state and federal laws and regulations pertaining to those discharges.

C. Discharge Limitations

Discharges shall not cause a visible change in turbidity or color or cause visible oil sheens in the discharge water or receiving waterbody. For in-stream monitoring required in this permit, turbidity in receiving waters shall not exceed five nephelometric turbidity units (NTU) over background (measured upstream of discharge) turbidity when the background turbidity is 50 NTU or less, or have more than a ten percent increase in turbidity when the background turbidity is more than 50 NTU.

Authorized discharges shall meet the following limitations on chemical and physical parameters specified:

| **EFFLUENT LIMITATIONS: DISCHARGES TO SURFACE WATER** | |
|---|---|
| **Parameter** | **Maximum Daily[a]** |
| Turbidity[1] | 50 NTU |
| Total Petroleum Hydrocarbons[2] | 10 mg/L |
| pH | In the range of 6.5 to 8.5 standard units with a human-caused variation within the above-range of less than 0.5 units in the receiving water |
| [a] The maximum daily effluent limitation is defined as the highest allowable daily discharge. | |

[1] The method detection level (MDL) for turbidity is 1 NTU using a turbidimeter and Method Number 180.1 from 40 CFR Part 136 or Standard Methods for the Examination of Water and Wastewater, 20th Edition, 2130.

[2] The MDL for total petroleum hydrocarbons is 0.1 mg/L using Gas Chromatography and Flame Ionization Detector (FID) and Method Number WTPH-D Diesel (WTPH-D) from Washington State Department of Ecology Method WTPH-D.

The quantitation level (QL) for TPH-D is 0.5 mg/L (5 x MDL).

| EFFLUENT LIMITATIONS:<br>DISCHARGES TO GROUND WATER | |
|---|---|
| **Parameter** | **Maximum Daily[a]** |
| Total Petroleum Hydrocarbons | 10 mg/L[1] |
| pH | In the range of 6.5 to 8.5 standard units |
| [a] The maximum daily effluent limitation is defined as the highest allowable daily discharge. | |

[1] The point of compliance with the ground water quality standards is any point within an unlined impoundment pond or other point of discharge to ground water.

## S2. COMPLIANCE WITH STANDARDS

Discharges shall not cause or contribute to a violation of surface water quality standards (Chapter 173-201A WAC), ground water quality standards (Chapter 173-200 WAC), sediment management standards (Chapter 173-204 WAC), and human health-based criteria in the National Toxics Rule (40 CFR Part 131.36). Discharges that are not in compliance with these standards are not authorized.

Prior to the discharge of stormwater and non-stormwater to *waters of the state*, the Permittee shall apply all known, available and reasonable methods of prevention, control, and treatment (*AKART*). This includes the preparation and implementation of an adequate Stormwater Pollution Prevention Plan (SWPPP), with all appropriate *best management practices* (BMPs) installed and maintained in accordance with the SWPPP and the terms and conditions of this permit.

Compliance with water quality standards shall be presumed, unless discharge monitoring data or other site-specific information demonstrates that a discharge causes or contributes to a violation of water quality standards, when the Permittee is:

1. In full compliance with all permit conditions, including planning, sampling, monitoring, reporting, and record keeping conditions; and

2. Fully implementing stormwater BMPs contained in stormwater management manuals published or approved by Ecology, or BMPs that are *demonstrably equivalent* to BMPs contained in stormwater technical manuals published or approved by Ecology, including the proper selection, implementation, and maintenance of all applicable and appropriate BMPs for on-site *pollution* control.

For sites that discharge to both surface water and ground water, all groundwater discharges are also subject to the terms and conditions of this permit. Permittees who discharge to ground water through an *injection well* shall comply with any applicable requirements of the Underground Injection Control (UIC) regulations, Chapter 173-218 WAC.

## S3. MONITORING REQUIREMENTS

The Permittee shall submit a Water Quality Monitoring Plan to the Department of Ecology at least 30 days prior to beginning construction of each phase of the project. The plan shall be sent to the Department of Ecology, Northwest Regional Office, 3190 – 160th Avenue SE, Bellevue, WA 98008-5452, Attention: Water Quality Permit Coordinator. One copy of the plan shall be submitted to the Department of Ecology, Bellingham Field Office, Stormwater Inspector, 1204 Railroad Avenue, Suite 200, Bellingham, WA 98225.

Two types of sampling and monitoring are required: designated receiving waters shall be monitored to verify compliance water quality standards and construction runoff shall be monitored to verify compliance with discharge limitations and adequacy of BMPs. The monitoring plan shall include scheduling of activities in each TDA, diagrams showing discharge and sampling locations, and an example form for summarizing runoff sample results (see S4.A Reporting). The Permittee shall plan the construction area monitoring to verify that pollution control BMPs are working to prevent or control soil erosion and to prevent or reduce the volume and concentration of construction-activity pollutants from entering waters of the state. Monitoring of construction-area discharges will be adjusted as appropriate for rainfall and construction activities. Sampling procedures, methods, and equipment shall follow the guidance in Appendix 6B of the WSDOT *Highway Runoff Manual* (HRM). Receiving water monitoring is generally at fixed locations and frequencies for the project duration. Areas with construction activity will be monitored per the general guidance in this permit, but will be adjusted by the Permittee as needed. Sampling frequency shall be in accordance with requirements for "High-risk erosion control projects" in HRM, Appendix 6, unless specified otherwise in this permit. Total petroleum hydrocarbon sampling shall be taken at any discharge location at which any petroleum sheen is visible in the treatment facilities or receiving water.

Samples and measurements must be representative of the discharge, including representative sampling of any unusual discharge or discharge condition. Each distinct point of discharge from the site to surface waters, drainage ditches, wetlands, or storm drains must be sampled and analyzed separately if activities and site conditions that may pollute the storm water are likely to result in discharges that will significantly vary in the quantity or type of pollutants.

### A. Receiving Water Monitoring Requirements

Receiving water monitoring for turbidity and pH shall meet the minimum sampling frequencies in Table 3 (below). These requirements will be incorporated into the Permittee's Water Quality Monitoring Plan. These sample locations shall be located, mapped, and marked in accordance with the Appendix 6B of the HRM.

| Table 3. Receiving Water Monitoring Requirements[1] | | | | |
|---|---|---|---|---|
| **Water Body** | **Parameter** | **Sample Location** | **Frequency** | **Sample Type** |
| Tenmile Creek | Turbidity (NTU) | At Right of Way/property lines, upstream and downstream | Once per week or **twice per day if discharging** | Grab |
| | Turbidity (NTU) | Upstream and downstream of Sterk property wetland mitigation site | Once **per day if discharging** | Grab |
| Fourmile Creek | Turbidity (NTU) | At Right of Way/property lines, upstream and downstream | Once per week or **twice per day if discharging** | Grab |
| Deer Creek | Turbidity (NTU) | At Right of Way/property lines, upstream and downstream | Once per week or **twice per day if discharging** | Grab |

[1] Sampling is required from the time construction activity begins in the TDA until final stabilization is completed in the TDA.

B. Site Logbook

The Permittee shall maintain a site logbook that contains a record of the implementation of the SWPPP and other permit requirements, including the installation and maintenance of BMPs, site inspections, and stormwater monitoring.

C. Site Inspections

Site inspections shall include all areas disturbed by construction activities, all BMPs, and all stormwater discharge points. Storm water shall be visually examined for the presence of suspended sediment, turbidity, discoloration, and oil sheen. Inspectors shall evaluate the effectiveness of BMPs and determine if it is necessary to install, maintain, or repair BMPs to improve the quality of stormwater discharges.

1. Based on the results of the inspection, the Permittee shall correct the problems identified as follows:

   a. Review the SWPPP for compliance with Condition S9 and make appropriate revisions within seven days of the inspection; and

   b. Fully implement and maintain appropriate *source control* and/or *treatment BMPs* as soon as possible, but no later than ten days after the inspection; and

   c. Document BMP implementation and maintenance in the site logbook.

2. The site inspections shall be conducted at least once every *calendar week* and within 24 hours of any discharge from the site. Site inspections are required daily during all storm events that cause a discharge from the site. The inspection frequency for temporarily stabilized, inactive sites may be reduced to once every calendar month.

3. Inspections are not required outside of normal working hours or during unsafe conditions. If a Permittee is unable to complete an inspection during a monitoring period, the site logbook shall include a brief explanation.

4. Site inspections shall be conducted by a person who is knowledgeable in the principles and practices of erosion and sediment control. The inspector shall have the skills to:

    a. Assess the site conditions and construction activities that could impact the quality of stormwater, and

    b. Assess the effectiveness of erosion and sediment control measures used to control the quality of stormwater discharges.

5. Site inspections shall be conducted by a *Certified Erosion and Sediment Control Lead* (CESCL). The CESCL shall be identified in the SWPPP and shall be present on-site or on-call at all times. Certification shall be obtained through an approved erosion and sediment control training program that meets the minimum training standards established by Ecology.

6. The inspector shall summarize the results of each inspection in an inspection report or checklist and be entered into, or attached to, the site logbook. At a minimum, each inspection report or checklist shall include:

    a. Inspection date and time.

    b. Weather information; general conditions during inspection and approximate amount of precipitation since the last inspection, and within the last 24 hours.

    c. A summary or list of all BMPs which have been implemented, including observations of all erosion/sediment control structures or practices.

    d. The following shall be noted:

        i. Locations of BMPs inspected,

        ii. Locations of BMPs that need maintenance,

        iii. The reason maintenance is needed,

        iv. Locations of BMPs that failed to operate as designed or intended, and

        v. Locations where additional or different BMPs are needed, and the reason(s) why.

e. A description of stormwater discharged from the site. The inspector shall note the presence of suspended sediment, turbid water, discoloration, and/or oil sheen, as applicable.

f. Any water quality monitoring performed during inspection.

g. General comments and notes, including a brief description of any BMP repairs, maintenance, or installations made as a result of the inspection.

h. A statement that, in the judgment of the person conducting the site inspection, the site is either in compliance or out of compliance with the terms and conditions of the SWPPP and the permit. If the site inspection indicates that the site is out of compliance, the inspection report shall include a summary of the remedial actions required to bring the site back into compliance, as well as a schedule of implementation.

i. Name, title, and signature of the person conducting site inspection; and the following statement: *"I certify that this report is true, accurate, and complete, to the best of my knowledge and belief."*

D. Effluent Sampling Requirements

Discharges to Surface Waters and Wetlands

| Parameter | Units | Sample Point | Minimum Sampling Frequency | Sample Type |
|---|---|---|---|---|
| Turbidity | NTU | Discharge point | Once per day when discharging | Grab |
| pH[1] | Standard Units | Discharge point | Once per day when discharging | Grab |
| Total Petroleum Hydrocarbons | mg/L | Discharge point | When oil sheen is visible in receiving waters or work area | Grab |

[1] TDAs where significant concrete work is in progress and for one month after significant concrete work is completed.

1. Sampling Frequency

a. Sampling shall be conducted at least once every workday, when there is a discharge of stormwater (or authorized non-stormwater) from the site. Samples shall be representative of the flow and characteristics of the discharge.

b. When there is no discharge during a workday, sampling is not required.

c. Sampling is not required outside of normal working hours or during unsafe conditions. If a Permittee is unable to sample during a monitoring period, the Discharge Monitoring Report (DMR) shall include a brief explanation.

2. Sampling Locations

a. Sampling is required at all discharge points where stormwater (or authorized non-stormwater) is discharged off-site.

b. All sampling point(s) shall be identified on the SWPPP site map and be clearly marked in the field with a flag, tape, stake, or other visible marker.

3. Sampling and Analysis Methods

Turbidity analysis shall be performed with a calibrated turbidity meter (turbidimeter), either on-site or at an accredited lab. The results shall be recorded in the site logbook in Nephelometric Turbidity Units (NTU).

| Parameter | Units | Analytical Method | Sampling Frequency | Benchmark Value |
|---|---|---|---|---|
| Turbidity | NTU | SM2130 or EPA180.1 | Weekly, if discharging | 25 NTU |

4. Turbidity Benchmark Values

The benchmark value for turbidity for discharges from construction areas is 25 NTU (Nephelometric Turbidity Units). Discharges at or below 25 NTU verify that the BMPs in the area tributary to the sample location are functioning adequately. If samples exceed this benchmark value, the Permittee shall take action as follows until the discharge ceases or the turbidity levels drop below 25 NTU.

a. Turbidity 26 – 249 NTU: If discharge turbidity is greater than 25 NTU, but less than 250 NTU, the CESCL shall:

i. Cease any clearing, grubbing, or other work that exposes additional soil surface in the area tributary to the sampling location except for that work related to improving source control or treatment; and

ii. Review the SWPPP for compliance with Condition S6, and make appropriate revisions within seven days of the discharge that exceeded the benchmark; and

iii. Fully implement and maintain appropriate source control and/or treatment BMPs as soon as possible, but within ten days of the discharge that exceeded the benchmark; and

iv. Document BMP implementation and maintenance in the site logbook.

b. Turbidity 250 NTU or greater: If discharge turbidity is greater than or equal to 250 NTU, the Permittee shall:

i. Notify Ecology by phone in accordance with Condition S4.A; and

ii. Cease construction activities in the area tributary to the sampling location except for those activities related to improving source control or treatment; and

iii. Review the SWPPP for compliance with Condition S6 and make appropriate revisions within seven days of the discharge that exceeded the benchmark; and

iv. Fully implement and maintain appropriate source control and/or treatment BMPs as soon as possible, but within ten days of the discharge that exceeded the benchmark; and

v. Document BMP implementation and maintenance in the site logbook; and

vi. Continue to sample discharges daily until:

1. Turbidity is 25 NTU (or lower); or

2. The CESCL has demonstrated compliance with the water quality standard for turbidity in receiving waters in the areas:

a. No more than 5 NTU over background turbidity, if background is less than 50 NTU, or

b. No more than 10 percent over background turbidity, if background is 50 NTU or greater; or

3. The discharge stops or is eliminated.

E. pH Monitoring: Sites With Significant Concrete Work or Engineered Soils

In TDAs where the Permittee performs *significant concrete work* or uses *engineered soils*, **and** stormwater from the affected area drains to surface waters of the state or to a storm sewer system that drains to surface waters of the state, the Permittee shall conduct *pH* monitoring as set forth below:

1. For sites with significant concrete work, the *pH monitoring period* shall commence when the concrete is first exposed to precipitation and continue weekly until stormwater pH is 8.5 or less. "Significant concrete work" means greater than 1000 cubic yards poured concrete or recycled concrete.

2. For sites with engineered soils, the pH monitoring period shall commence when the soil amendments are first exposed to precipitation and shall continue until the area of engineered soils is *fully stabilized*. "Engineered soils" means soil amendments including, but not limited, to Portland cement treated base (CTB), cement kiln dust (CKD), or fly ash.

3. During the pH monitoring period, the Permittee shall obtain a representative sample of storm water and conduct pH analysis at least once per week.

4. The Permittee shall monitor pH in the sediment trap/pond(s) or other locations that receive stormwater runoff from the area of significant concrete work or engineered soils prior to discharge to surface waters.

5. The benchmark value for pH is 8.5 standard units. Any time sampling indicates that pH is 8.5 or greater, the Permittee shall:

   a. Prevent the high pH water (8.5 or above) from entering storm sewer systems or surface waters; and

   b. If necessary, adjust or neutralize the high pH water using an appropriate treatment BMP such as $CO_2$ sparging or dry ice. The Permittee shall obtain written approval from Ecology prior to using any form of chemical treatment other than $CO_2$ sparging or dry ice.

The Permittee shall perform pH analysis on-site with a calibrated pH meter, pH test kit, or wide-range pH indicator paper. The Permittee shall record pH monitoring results in the site logbook.

## S4. REPORTING AND RECORD KEEPING REQUIREMENTS

The Permittee shall report monitoring and permit violations in accordance with the following requirements.

A. <u>High Turbidity Phone Reporting</u>

Anytime sampling performed in accordance with Special Condition S3.C indicates turbidity is 250 NTU, the Permittee shall notify the Department of Ecology Bellingham Field Office Stormwater Inspector by phone at (360) 738-6250 within 24 hours of analysis.

B. <u>Discharge Monitoring Reports (DMR)</u>

The first monitoring period begins no later than the first day construction begins. A summary of monitoring results for receiving water monitoring shall be submitted monthly. Monitoring data obtained during each monitoring period for receiving water stations shall be summarized, reported, and submitted on a Discharge Monitoring Report (DMR) form provided or approved by the Department. If there was no discharge to a receiving water during a month, construction has not begun in the TDA(s), or the TDA has attained final stabilization status, write “No Discharge” for the appropriate outfall(s) and receiving waters.

Construction runoff sample results will be summarized by reporting TDAs for which turbidity, pH, or both were sampled and analyzed. For turbidity, report the number of samples that were taken, the number of samples that exceeded the threshold of 25 NTU, the number of samples that exceeded the threshold of 250 NTU, and a narrative summarizing actions taken to respond to sample results in excess of threshold values. pH shall be reported as monthly minimums and maximums. The total number of samples that exceeded permit limits will be reported for any parameter. The Department will provide a form for the DMR reporting. The Permittee shall provide a narrative summarizing corrective actions taken in response to sample results in excess of 25 and 250 NTU benchmark values for any month that benchmarks are exceeded.

The Permittee shall submit examples of its own record keeping forms for individual samples as part of the Water Quality Monitoring Plan. These forms shall be submitted along with the monthly DMR when requested by the Department of Ecology, or for a month during which effluent limit violations occur or water quality standards were exceeded.

DMR forms shall be received no later than the 15$^{th}$ day of the month following the completed monitoring period, unless otherwise specified in this permit. The DMRs shall be sent to the Department of Ecology, Northwest Regional Office, 3190 – 160th Avenue SE, Bellevue, WA 98008-5452, Attention: Water Quality Permit Coordinator. One copy of the DMR forms shall be submitted to the Department of Ecology, Bellingham Field Office, Stormwater Inspector, 1204 Railroad Avenue, Suite 200, Bellingham, WA 98225.

C. Records Retention

The Permittee shall retain records of all monitoring information (site logbook, sampling results, inspection reports/checklists, etc.), Stormwater Pollution Prevention Plan, and any other documentation of compliance with permit requirements during the life of the construction project and for a minimum of three years following the termination of permit coverage. Such information shall include all calibration and maintenance records, and records of all data used to complete the application for this permit. This period of retention shall be extended during the course of any unresolved litigation regarding the discharge of pollutants by the Permittee or when requested by Ecology.

D. Recording of Results

For each measurement or sample taken, the Permittee shall record the following information in the site logbook: (1) the date, exact place, method, and time of sampling or measurement; (2) the individual who performed the sampling or measurement; (3) the dates the analyses were performed; (4) the individual who performed the analyses; (5) the analytical techniques or methods used; and (6) the results of all analyses.

E. Additional Monitoring by the Permittee

If the Permittee monitors any pollutant more frequently than required by this permit using test procedures specified by Condition S3 of this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the Permittee's DMR.

F. Noncompliance Notification

In the event the Permittee is unable to comply with any of the terms and conditions of this permit which may cause a threat to human health or the environment, the Permittee shall:

1. Immediately notify Ecology of the failure to comply.

2. Immediately take action to prevent the discharge/pollution, or otherwise stop or correct the noncompliance, and, if applicable, repeat sampling and analysis of any noncompliance immediately and submit the results to Ecology within five days after becoming aware of the violation.

3. Submit a detailed, written report to Ecology within five days, unless requested earlier by Ecology. The report shall contain a description of the noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and the steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

Compliance with these requirements does not relieve the Permittee from responsibility to maintain continuous compliance with the terms and conditions of this permit or the resulting liability for failure to comply.

G. Access to Plans and Records

The Permittee shall retain the following permit documentation (plans and records) on-site, or within reasonable access to the site, for use by the operator; or on-site review by Ecology, or the local *jurisdiction* the permit, fact sheet, Stormwater Pollution Prevention Plan (SWPPP); and the site logbook. The Permittee shall provide these documents for review upon request.

The Permittee(s) shall address written requests for plans and records listed above as follows:

1. A copy of plans and records shall be provided to Ecology within 14 days of receipt of a written request from Ecology.

2. A copy of plans and records shall be provided to the public when requested in writing. Upon receiving a written request from the public for the Permittee's plans and records, the Permittee shall either:

a. Provide a copy of the plans and records to the requestor within 14 days of a receipt of the written request; or

b. Notify the requestor within ten days of receipt of the written request of the location and times within normal business hours when the plans and records may be viewed, and provide access to the plans and records within 14 days of receipt of the written request; or

c. Within 14 days of receipt of the written request, the Permittee may submit a copy of the plans and records to Ecology for viewing and/or copying by the requestor at an Ecology office, or a mutually agreed upon location. If plans and records are viewed and/or copied at a location other than at an Ecology office, the Permittee will provide reasonable access to copying services for which a reasonable fee may be charged. The Permittee shall notify the requestor within ten days of receipt of the request where the plans and records may be viewed and/or copied.

## S5. SOLID AND LIQUID WASTE DISPOSAL

Solid and liquid wastes generated by construction activity such as demolition debris, construction materials, contaminated materials, and waste materials from maintenance activities, including liquids and solids from cleaning catch basins and other stormwater facilities, shall be handled and disposed of in accordance with Special Condition S2, Compliance with Standards, WAC 173-216-110, and other applicable regulations.

## S6. STORMWATER POLLUTION PREVENTION PLAN

The Permittee shall prepare and implement an adequate Stormwater Pollution Prevention Plan (SWPPP) for construction activity in accordance with the requirements of this permit beginning with initial soil disturbance and until *final stabilization*.

A. <u>The SWPPP Shall Meet the Following Objectives</u>

1. To implement best management practices (BMPs) to prevent erosion and *sedimentation*, and to identify, reduce, eliminate or prevent stormwater contamination and water pollution from construction activity.

2. To prevent violations of surface water quality, ground water quality, or sediment management standards.

3. To control peak volumetric flow rates and velocities of stormwater discharges.

B. <u>General Requirements</u>

1. The SWPPP shall include a narrative and drawings. All BMPs shall be clearly referenced in the narrative and marked on the drawings. The SWPPP narrative shall include documentation to explain and justify the pollution prevention decisions made for the project. Documentation shall include:

   a. Information about existing site conditions (topography, drainage, soils, vegetation, etc.);

b. Potential erosion problem areas;

c. The 12 elements of a SWPPP in S6.D.1-12, including BMPs used to address each element;

d. Construction phasing/sequence and general BMP implementation schedule;

e. The actions to be taken if BMP performance goals are not achieved; and

f. Engineering calculations for ponds and any other designed structures

g. A list of all contractors on-site whose work activities are subject to requirements of the SWPPP (e.g., grading, hauling, demolition, erosion control, etc.). The SWPPP shall list the contractor name, chief representative for activities on the permitted site, mailing address, and phone numbers. This list shall be kept current.

2. The Permittee shall modify the SWPPP if, during inspections or investigations conducted by the owner/operator, or the applicable local or state regulatory authority, it is determined that the SWPPP is, or would be, ineffective in eliminating or significantly minimizing pollutants in stormwater discharges from the site. The Permittee shall take the following actions:

   a. Review the SWPPP for compliance with Condition S6 and make appropriate revisions within seven days of the inspection or investigation;

   b. Fully implement and maintain appropriate source control and/or treatment BMPs as soon as possible, but no later than ten days from the inspection or investigation; and

   c. Document BMP implementation and maintenance in the site logbook.

3. The Permittee shall modify the SWPPP whenever there is a change in design, construction, operation, or maintenance at the construction site that has, or could have, a significant effect on the discharge of pollutants to waters of the state.

C. Stormwater Best Management Practices (BMPs)

BMPs shall be consistent with:

1. *Stormwater Management Manual for Western Washington* (most recent edition), for sites west of the crest of the Cascade Mountains;

2. *WSDOT Highway Runoff Manual* (most recent edition), or

3. Other stormwater management guidance documents or manuals which provide an equivalent level of pollution prevention and are approved by Ecology; or

4. Documentation in the SWPPP that the BMPs selected provides an equivalent level of pollution prevention, compared to the applicable stormwater management manuals, including:

a. The technical basis for the selection of all stormwater BMPs (scientific, technical studies, and/or modeling) which support the performance claims for the BMPs being selected; and

b. An assessment of how the selected BMP will satisfy AKART requirements and the applicable federal technology-based treatment requirements under 40 CFR Part 125.3.

D. SWPPP – Narrative Contents and Requirements

The Permittee shall include each of the 12 elements below in S6.D.1-12 in the narrative of the SWPPP and ensure that they are implemented unless site conditions render the element unnecessary and the exemption from that element is clearly justified in the SWPPP.

1. Preserve Vegetation/Mark Clearing Limits

a. Prior to beginning land disturbing activities, including clearing and grading, clearly mark all clearing limits, *sensitive areas* and their *buffers*, and trees that are to be preserved within the construction area.

b. The duff layer, native top soil, and natural vegetation shall be retained in an undisturbed state to the maximum degree practicable.

2. Establish Construction Access

a. Construction vehicle access and exit shall be limited to one route, if possible.

b. Access points shall be stabilized with a pad of quarry spalls, crushed rock, or other *equivalent BMP*, to minimize the tracking of sediment onto public roads.

c. Wheel wash or tire baths shall be located on site, if the stabilized construction entrance is not effective in preventing sediment from being tracked onto public roads.

d. If sediment is tracked off-site, public roads shall be cleaned thoroughly at the end of each day, or more frequently during wet weather. Sediment shall be removed from roads by shoveling or pickup sweeping and shall be transported to a controlled sediment disposal area.

e. Street washing is allowed only after sediment is removed in accordance with S6.D.2.d. Street wash wastewater shall be controlled by pumping back on-site or otherwise be prevented from discharging into systems tributary to waters of the state.

3. Control Flow Rates

a. Properties and waterways downstream from development sites shall be protected from erosion due to increases in the velocity and peak volumetric flow rate of stormwater runoff from the project site, as required by the Stormwater Site Plan.

b. Where necessary to comply with S6.D.3.a, stormwater retention or *detention* facilities shall be constructed as one of the first steps in grading. Detention facilities shall be functional prior to construction of site improvements (e.g., impervious surfaces).

c. If permanent infiltration ponds are used for flow control during construction, these facilities shall be protected from siltation during the construction phase.

4. Install Sediment Controls

a. Stormwater runoff from disturbed areas shall pass through a sediment pond or other appropriate sediment removal BMP, prior to leaving a construction site or prior to discharge to an infiltration facility. Runoff from fully stabilized areas may be discharged without a sediment removal BMP, but shall meet the flow control performance standard of S6.D.3.a.

b. Sediment control BMPs (sediment ponds, traps, filters, etc.) shall be constructed as one of the first steps in grading in each TDA. These BMPs shall be functional before other land disturbing activities take place.

c. BMPs intended to trap sediment on site shall be located in a manner to avoid interference with the movement of juvenile salmonids attempting to enter off-channel areas or drainages.

5. Stabilize Soils

a. Exposed and unworked soils shall be stabilized by application of effective BMPs that prevent erosion. Applicable BMPs include, but are not limited to: temporary and permanent seeding, sodding, mulching, plastic covering, erosion control fabrics and matting, soil application of polyacrylamide (PAM), the early application of gravel base on areas to be paved, and dust control.

b. No soils shall remain exposed and unworked for more than the time periods set forth below to prevent erosion:

West of the Cascade Mountains Crest
During the dry season (May 1 - September 30): seven days
During the wet season (October 1 - April 30): two days

c. Soils shall be stabilized at the end of the shift before a holiday or weekend if needed based on the weather forecast.

d. Soil stockpiles shall be stabilized from erosion, protected with sediment trapping measures, and where possible, be located away from *storm drain* inlets, waterways, and drainage channels.

6. Protect Slopes

   a. Design and construct cut and fill slopes in a manner that will minimize erosion. Applicable practices include, but are not limited to, reducing continuous length of slope with terracing and diversions, reducing slope steepness, and roughening slope surfaces (e.g., track walking).

   b. Off-site stormwater (run-on) or groundwater shall be diverted away from slopes and disturbed areas with interceptor dikes, pipes, and/or swales. Off-site stormwater should be managed separately from stormwater generated on the site.

   c. At the top of slopes, collect drainage in pipe slope drains or protected channels to prevent erosion. Temporary pipe slope drains shall handle the peak ten-minute velocity of flow from a Type 1A, ten-year, 24-hour frequency storm for the developed condition. Alternatively, the ten-year, one-hour flow rate predicted by an approved continuous runoff model, increased by a factor of 1.6, may be used. The hydrologic analysis shall use the existing land cover condition for predicting flow rates from tributary areas outside the project limits. For tributary areas on the project site, the analysis shall use the temporary or permanent project land cover condition, whichever will produce the highest flow rates. If using the WWHM to predict flows, bare soil areas should be modeled as "landscaped area."

   d. Excavated material shall be placed on the uphill side of trenches, consistent with safety and space considerations.

   e. Check dams shall be placed at regular intervals within constructed channels that are cut down a slope.

7. Protect Drain Inlets

   a. All storm drain inlets made operable during construction shall be protected so that stormwater runoff does not enter the conveyance system without first being filtered or treated to remove sediment.

   b. Inlet protection devices shall be cleaned or removed and replaced when sediment has filled one-third of the available storage (unless a different standard is specified by the product manufacturer).

8. Stabilize Channels and Outlets

   a. All temporary on-site conveyance channels shall be designed, constructed, and stabilized to prevent erosion from the following expected peak flows. Channels shall handle the peak ten-minute velocity of flow from a Type 1A, ten-year, 24-hour frequency storm for the developed condition. Alternatively, the ten-year, one-hour flow rate indicated by an approved continuous runoff model, increased by a factor of 1.6, may be used. The hydrologic analysis shall use the existing land cover condition for predicting flow rates from tributary areas outside the project limits. For tributary areas on the project site, the analysis shall use the temporary or permanent project land cover condition, whichever will produce the highest flow rates. If using the WWHM to predict flows, bare soil areas should be modeled as "landscaped area."

b. *Stabilization*, including armoring material, adequate to prevent erosion of outlets, adjacent stream banks, slopes, and downstream reaches shall be provided at the outlets of all conveyance systems.

9. Control Pollutants

a. All pollutants, including waste materials and demolition debris, that occur on-site shall be handled and disposed of in a manner that does not cause contamination of storm water.

b. Cover, containment, and protection from vandalism shall be provided for all chemicals, liquid products, petroleum products, and other materials that have the potential to pose a threat to human health or the environment. On-site fueling tanks shall include secondary containment.

c. Maintenance, fueling, and repair of heavy equipment and vehicles shall be conducted using spill prevention and control measures. Contaminated surfaces shall be cleaned immediately following any spill incident.

d. Wheel wash or tire bath wastewater shall be discharged to a separate on-site treatment system or to the *sanitary sewer* with local sewer district approval.

e. Application of fertilizers and pesticides shall be conducted in a manner and at application rates that will not result in loss of chemical to stormwater runoff. Manufacturers' label requirements for application rates and procedures shall be followed.

f. BMPs shall be used to prevent or treat contamination of stormwater runoff by pH modifying sources. These sources include, but are not limited to: bulk cement, cement kiln dust, fly ash, new concrete washing and curing waters, waste streams generated from concrete grinding and sawing, exposed aggregate processes, dewatering concrete vaults, concrete pumping and mixer washout waters. Permittees shall adjust the pH of storm water if necessary to prevent violations of water quality standards.

g. Permittees shall obtain written approval from Ecology prior to using chemical treatment, other than $CO_2$ or dry ice to adjust pH.

10. Control Dewatering

a. Foundation, vault, and trench dewatering water, which have similar characteristics to stormwater runoff at the site, shall be discharged into a controlled conveyance system prior to discharge to a sediment trap or sediment pond.

b. Clean, non-turbid dewatering water, such as well-point ground water, can be discharged to systems tributary to, or directly into surface waters of the state, as specified in S6.D.8, provided the dewatering flow does not cause erosion or flooding of receiving waters. Clean dewatering water should not be routed through stormwater sediment ponds.

c. Other dewatering disposal options may include:

i. Infiltration;

ii. Transport off-site in a vehicle, such as a vacuum flush truck, for legal disposal in a manner that does not pollute state waters;

iii. Ecology-approved on-site chemical treatment or other suitable treatment technologies;

iv. Sanitary sewer discharge with local sewer district approval, if there is no other option; or

v. Use of a sedimentation bag with *outfall* to a ditch or swale for small volumes of localized dewatering.

d. Highly turbid or contaminated dewatering water shall be handled separately from storm water.

11. Maintain BMPs

a. All temporary and permanent erosion and sediment control BMPs shall be maintained and repaired as needed to assure continued performance of their intended function in accordance with BMP specifications.

b. All temporary erosion and sediment control BMPs shall be removed within 30 days after final site stabilization is achieved or after the temporary BMPs are no longer needed.

12. Manage the Project

a. The Permittee shall phase the project to minimize pollutant sources to the maximum degree practicable and shall take into account seasonal work limitations.

All BMPs shall be inspected, maintained, and repaired as needed to assure continued performance of their intended function. Site inspections and monitoring shall be conducted in accordance with S3.

b. Maintain an Updated Construction SWPPP

The SWPPP shall be maintained, updated, and implemented in accordance with Conditions S1, S3, and S6.

E. SWPPP – Map Contents and Requirements

The SWPPP shall also include a vicinity map or general location map (e.g., USGS Quadrangle map, a portion of a county or city map, or other appropriate map) with enough detail to identify the location of the construction site and receiving waters within one mile of the site.

The SWPPP shall also include a legible site map (or maps) showing the entire construction site. The following features shall be identified, unless not applicable due to site conditions:

1. The direction of north, property lines, and existing structures and roads;
2. Cut and fill slopes indicating the top and bottom of slope catch lines;
3. Approximate slopes, contours, and direction of stormwater flow before and after major grading activities;
4. Areas of soil disturbance and areas that will not be disturbed;
5. Locations of structural and nonstructural controls (BMPs) identified in the SWPPP;
6. Locations of off-site material, stockpiles, waste storage, borrow areas, and vehicle/equipment storage areas;
7. Locations of all surface waterbodies, including wetlands;
8. Locations where stormwater or non-stormwater discharges off-site and/or to a surface waterbody, including wetlands;
9. Location of water quality sampling station(s), if sampling is required by state or local permitting authority; and
10. Areas where final stabilization has been accomplished and no further construction-phase permit requirements apply.

# GENERAL CONDITIONS

## G1. DISCHARGE VIOLATIONS

All discharges and activities authorized by this permit shall be consistent with the terms and conditions of this permit. The discharge of any pollutants more frequently than, or at a level in excess of, that identified and authorized by this permit shall constitute a violation of the terms and conditions of this permit. Definitions of permit terminology are listed in Appendix A.

## G2. SIGNATORY REQUIREMENTS

All applications, reports, or information submitted to the Department shall be signed and certified.

A. All permit applications shall be signed by either a by either a principal executive officer or a ranking elected official.

B. All reports required by this permit and other information requested by the Department shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:

1. The authorization is made in writing by a person described above and submitted to the Department.

2. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility, such as the position of plant manager, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.)

C. Changes to authorization. If an authorization under paragraph B.2, above, is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of paragraph B.2, above, must be submitted to the Department prior to or together with any reports, information, or applications to be signed by an authorized representative.

D. Certification. Any person signing a document under this section shall make the following certification:

*"I certify under penalty of law, that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."*

## G3. RIGHT OF INSPECTION AND ENTRY

The Permittee shall allow an authorized representative of the Department, upon the presentation of credentials and such other documents as may be required by law:

A. To enter upon the premises where a discharge is located or where any records must be kept under the terms and conditions of this permit.

B. To have access to and copy - at reasonable times and at reasonable cost - any records required to be kept under the terms and conditions of this permit.

C. To inspect - at reasonable times - any facilities, equipment (including monitoring and control equipment), practices, methods, or operations regulated or required under this permit.

D. To sample or monitor - at reasonable times - any substances or parameters at any location for purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act.

## G4. PERMIT ACTIONS

This permit may be modified, revoked and reissued, or terminated either at the request of any interested person (including the Permittee) or upon the Department's initiative. However, the permit may only be modified, revoked and reissued, or terminated for the reasons specified in 40 CFR 122.62, 122.64 or WAC 173-220-150 according to the procedures of 40 CFR 124.5.

The following are causes for terminating this permit during its term, or for denying a permit renewal application:

1. Violation of any permit term or condition.
2. Obtaining a permit by misrepresentation or failure to disclose all relevant facts.
3. A material change in quantity or type of waste disposal.
4. A determination that the permitted activity endangers human health or the environment or contributes to water quality standards violations and can only be regulated to acceptable levels by permit modification or termination [40 CFR Part 122.64(3)].
5. A change in any condition that requires either a temporary or permanent reduction or elimination of any discharge or sludge use or disposal practice controlled by the permit [40 CFR Part 122.64(4)].
6. Nonpayment of fees assessed pursuant to RCW 90.48.465.
7. Failure or refusal of the Permittee to allow entry as required in RCW 90.48.090.

The following are causes for modification but not revocation and reissuance except when the Permittee requests or agrees:

1. A material change in the condition of the waters of the state.
2. New information not available at the time of permit issuance that would have justified the application of different permit conditions.
3. Material and substantial alterations or additions to the permitted facility or activities which occurred after this permit issuance.
4. Promulgation of new or amended standards or regulations having a direct bearing upon permit conditions, or requiring permit revision.
5. The Permittee has requested a modification based on other rationale meeting the criteria of 40 CFR Part 122.62.
6. The Department has determined that good cause exists for modification of a compliance schedule, and the modification will not violate statutory deadlines.
7. Incorporation of an approved local pretreatment program into a municipality's permit.

The following are causes for modification or alternatively revocation and reissuance:

1. Cause exists for termination for reasons listed in A1 through A7, of this section, and the Department determines that modification or revocation and reissuance is appropriate.
2. The Department has received notification of a proposed transfer of the permit. A permit may also be modified to reflect a transfer after the effective date of an automatic transfer (General Condition G8) but will not be revoked and reissued after the effective date of the transfer except upon the request of the new Permittee.

## G5. REPORTING A CAUSE FOR MODIFICATION

The Permittee shall submit a new application, or a supplement to the previous application, along with required engineering plans and reports whenever a material change to the facility or in the quantity or type of discharge is anticipated which is not specifically authorized by this permit. This application shall be submitted at least 60 days prior to any proposed changes. The filing of a request by the Permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not relieve the Permittee of the duty to comply with the existing permit until it is modified or reissued.

## G6. COMPLIANCE WITH OTHER LAWS AND STATUTES

Nothing in this permit shall be construed as excusing the Permittee from compliance with any applicable federal, state, or local statutes, ordinances, or regulations.

## G7. DUTY TO REAPPLY

The Permittee shall apply for permit renewal at least 180 days prior to the specified expiration date of this permit.

## G8. TRANSFER OF THIS PERMIT

In the event of any change in control or ownership of facilities from which the authorized discharge emanate, the Permittee shall notify the succeeding owner or controller of the existence of this permit by letter, a copy of which shall be forwarded to the Department.

A. Transfers by Modification

Except as provided in paragraph B, below, this permit may be transferred by the Permittee to a new owner or operator only if this permit has been modified or revoked and reissued under 40 CFR 122.62(b)(2), or a minor modification made under 40 CFR 122.63(d), to identify the new Permittee and incorporate such other requirements as may be necessary under the Clean Water Act.

B. Automatic Transfers

This permit may be automatically transferred to a new Permittee if:

1. The Permittee notifies the Department at least 30 days in advance of the proposed transfer date.

2. The notice includes a written agreement between the existing and new Permittee's containing a specific date transfer of permit responsibility, coverage, and liability between them.

3. The Department does not notify the existing Permittee and the proposed new Permittee of its intent to modify or revoke and reissue this permit. A modification under the subparagraph may also be minor modification under 40 CFR 122.63. If this notice is not received, the transfer is effective on the date specified in the written agreement.

## G9. REMOVED SUBSTANCES

Collected screenings, grit, solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters shall not be resuspended or reintroduced to the final effluent stream for discharge to state waters.

## G10. DUTY TO PROVIDE INFORMATION

The Permittee shall submit to the Department, within a reasonable time, all information which the Department may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The Permittee shall also submit to the Department upon request, copies of records required to be kept by this permit [40 CFR 122.41(h)].

## G11. OTHER REQUIREMENTS OF 40 CFR

All other requirements of 40 CFR 122.41 and 122.42 are incorporated in this permit by reference.

## G12. ADDITIONAL MONITORING

The Department may establish specific monitoring requirements in addition to those contained in this permit by administrative order or permit modification.

## G13. PAYMENT OF FEES

The Permittee shall submit payment of fees associated with this permit as assessed by the Department.

## G14. PENALTIES FOR VIOLATING PERMIT CONDITIONS

Any person who is found guilty of willfully violating the terms and conditions of this permit shall be deemed guilty of a crime, and upon conviction thereof shall be punished by a fine of up to ten thousand dollars ($10,000) and costs of prosecution, or by imprisonment in the discretion of the court. Each day upon which a willful violation occurs may be deemed a separate and additional violation.

Any person who violates the terms and conditions of a waste discharge permit shall incur, in addition to any other penalty as provided by law, a civil penalty in the amount of up to ten thousand dollars ($10,000) for every such violation. Each and every such violation shall be a separate and distinct offense, and in case of a continuing violation, every day's continuance shall be deemed to be a separate and distinct violation.

## G15. PROPERTY RIGHTS

This permit does not convey any property rights of any sort, or any exclusive privilege.

## G16. DUTY TO COMPLY

The Permittee shall comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application.

## G17. TOXIC POLLUTANTS

The Permittee shall comply with effluent standards or prohibitions established under Section 307(a) of the Clean Water Act for toxic pollutants within the time provided in the regulations that establish those standards or prohibitions, even if this permit has not yet been modified to incorporate the requirement.

## G18. PENALTIES FOR TAMPERING

The Clean Water Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than $10,000 per violation, or by imprisonment for not more than two years per violation, or by both. If a conviction of a person is for a violation committed after a first conviction of such person under this Condition, punishment shall be a fine of not more than $20,000 per day of violation, or by imprisonment of not more than four years, or by both.

## G19. REPORTING PLANNED CHANGES

The Permittee shall, as soon as possible, give notice to the Department of planned physical alterations or additions to the permitted facility, production increases, or process modification which will result in: 1) the permitted facility being determined to be a new source pursuant to 40 CFR 122.29(b); 2) a significant change in the nature or an increase in quantity of pollutants discharged; or 3) a significant change in the Permittee's sludge use or disposal practices. Following such notice, this permit may be modified, or revoked and reissued pursuant to 40 CFR 122.62(a) to specify and limit any pollutants not previously limited. Until such modification is effective, any new or increased discharge in excess of permit limits or not specifically authorized by this permit constitutes a violation.

## G20. REPORTING ANTICIPATED NONCOMPLIANCE

The Permittee shall give advance notice to the Department by submission of a new application or supplement thereto at least 180 days prior to commencement of such discharges, of any facility expansions, production increases, or other planned changes, such as process modifications, in the permitted facility or activity which may result in noncompliance with permit limits or conditions. Any maintenance of facilities, which might necessitate unavoidable interruption of operation and degradation of effluent quality, shall be scheduled during noncritical water quality periods and carried out in a manner approved by the Department.

## G21. REPORTING OTHER INFORMATION

Where the Permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Department, it shall promptly submit such facts or information.

## G21. COMPLIANCE SCHEDULES

Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.

## G22. UPSET

Definition – "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the Permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of the following paragraph are met.

A Permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs or other relevant evidence that:
1) an upset occurred and that the Permittee can identify the cause(s) of the upset;
2) the permitted facility was being properly operated at the time of the upset;
3) the Permittee submitted notice of the upset as required in Condition S5.F; and
4) the Permittee complied with any remedial measures required under this permit.

In any enforcement proceeding, the Permittee seeking to establish the occurrence of an upset has the burden of proof.

## G23. BYPASS PROHIBITED

A. Bypass Procedures

*Bypass*, which is the intentional diversion of waste streams from any portion of a treatment facility, is prohibited for stormwater events below the design criteria for stormwater management. Ecology may take enforcement action against a Permittee for bypass unless one of the following circumstances (1, 2, 3 or 4) is applicable.

1. Bypass of stormwater is consistent with the design criteria and part of an approved management practice in the applicable stormwater management manual.

2. Bypass for essential maintenance without the potential to cause violation of permit limits or conditions.

   Bypass is authorized if it is for essential maintenance and does not have the potential to cause violations of limitations or other conditions of this permit, or adversely impact public health.

3. Bypass of stormwater is unavoidable, unanticipated, and results in noncompliance of this permit.

   This bypass is permitted only if:

   a. Bypass is unavoidable to prevent loss of life, personal injury, or severe property damage. “Severe property damage” means substantial physical damage to property, damage to the treatment facilities which would cause them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass;

   b. There are no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, maintenance during normal periods of equipment downtime (but not if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance), or transport of untreated wastes to another treatment facility; and

   c. Ecology is properly notified of the bypass as required in Special Condition S5.F of this permit.

4. A planned action that would cause bypass of stormwater and has the potential to result in noncompliance of this permit during a storm event.

   The Permittee shall notify Ecology at least 30 days before the planned date of bypass. The notice shall contain:

   a. A description of the bypass and its cause;

   b. An analysis of all known alternatives which would eliminate, reduce, or mitigate the need for bypassing;

   c. A cost-effectiveness analysis of alternatives including comparative resource damage assessment;

   d. The minimum and maximum duration of bypass under each alternative;

   e. A recommendation as to the preferred alternative for conducting the bypass;

   f. The projected date of bypass initiation;

   g. A statement of compliance with *SEPA*;

   h. A request for modification of water quality standards as provided for in WAC 173-201A-110, if an exceedance of any water quality standard is anticipated; and

   i. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass.

5. For probable construction bypasses, the need to bypass is to be identified as early in the planning process as possible. The analysis required above shall be considered during preparation of the Stormwater Pollution Prevention Plan (SWPPP) and shall be included to the extent practical. In cases where the probable need to bypass is determined early, continued analysis is necessary up to and including the construction period in an effort to minimize or eliminate the bypass.

   Ecology will consider the following prior to issuing an administrative order for this type of bypass:

   a. If the bypass is necessary to perform construction or maintenance-related activities essential to meet the requirements of this permit.

   b. If there are feasible alternatives to bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, stopping production, maintenance during normal periods of equipment down time, or transport of untreated wastes to another treatment facility.

   c. If the bypass is planned and scheduled to minimize adverse effects on the public and the environment.

   After consideration of the above and the adverse effects of the proposed bypass and any other relevant factors, Ecology will approve, conditionally approve, or

deny the request. The public shall be notified and given an opportunity to comment on bypass incidents of significant duration, to the extent feasible. Approval of a request to bypass will be by administrative order issued by Ecology under RCW 90.48.120.

B. Duty to Mitigate

The Permittee is required to take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit that has a reasonable likelihood of adversely affecting human health or the environment.

# Appendix A – Definitions

*AKART* is an acronym for "all known, available and reasonable methods of prevention, control, and treatment." AKART represents the most current methodology that can be reasonably required for preventing, controlling, or abating the pollutants and controlling pollution associated with a discharge.

*Applicable TMDL* means a TMDL for turbidity, fine sediment, high pH, or phosphorus, which has been completed and approved by EPA prior to November 16, 2005, or prior to the date the operator's complete permit application is received by Ecology, whichever is later.

*Applicant* means an *operator* seeking coverage under this permit.

*Best Management Practices* (BMPs) means schedules of activities, prohibitions of practices, maintenance procedures, and other physical, structural and/or managerial practices to prevent or reduce the pollution of waters of the state. BMPs include treatment systems, operating procedures, and practices to control: stormwater associated with construction activity, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

*Buffer* means an area designated by a local jurisdiction that is contiguous to and intended to protect a sensitive area

*Bypass* means the intentional diversion of waste streams from any portion of a treatment facility.

*Calendar Week* (same as *Week*) means a period of seven consecutive days starting on Sunday.

*Certified Erosion and Sediment Control Lead* (CESCL) means a person who has current certification through an approved erosion and sediment control training program that meets the minimum training standards established by Ecology (see BMP C160 in the SWMM).

*Clean Water Act* (CWA) means the Federal Water Pollution Control Act enacted by Public Law 92-500, as amended by Public Laws 95-217, 95-576, 96-483, and 97-117; USC 1251 et seq.

*Combined Sewer* means a sewer which has been designed to serve as a sanitary sewer and a storm sewer, and into which inflow is allowed by local ordinance.

*Common plan of development or sale* means a site where multiple separate and distinct construction activities may be taking place at different times on different schedules, but still under a single plan. Examples include: 1) phased projects and projects with multiple filings or lots, even if the separate phases or filings/lots will be constructed under separate contract or by separate owners (e.g., a development where lots are sold to separate builders); 2) a development plan that may be phased over multiple years, but is still under a consistent plan for long-term development; and 3) projects in a contiguous area that may be unrelated but still under the same contract, such as construction of a building extension and a new parking lot at the same facility. If the project is part of a common plan of development or sale, the disturbed area of the entire plan shall be used in determining permit requirements.

*Composite Sample* A mixture of grab samples collected at the same sampling point at different times, formed either by continuous sampling or by mixing discrete samples. May be "time-composite" (collected at constant time intervals) or "flow-proportional" (collected either as a constant sample volume at time intervals proportional to stream flow, or collected by increasing the volume of each aliquot as the flow increases while maintaining a constant time interval between the aliquots).

*Construction Activity* means land disturbing operations including clearing, grading, or excavation which disturbs the surface of the land. Such activities may include road construction; construction of residential houses, office buildings, or industrial buildings; and demolition activity.

*Demonstrably Equivalent* means that the technical basis for the selection of all stormwater BMPs is documented within a SWPPP, including:

1. The method and reasons for choosing the stormwater BMPs selected;
2. The pollutant removal performance expected from the BMPs selected;
3. The technical basis supporting the performance claims for the BMPs selected, including any available data concerning field performance of the BMPs selected;
4. An assessment of how the selected BMPs will comply with state water quality standards; and
5. An assessment of how the selected BMPs will satisfy both applicable federal technology-based treatment requirements and state requirements to use all known, available and reasonable methods of prevention, control, and treatment (AKART).

*Department* means the Washington State Department of Ecology.

*Detention* means the temporary storage of stormwater to improve quality and/or to reduce the mass flow rate of discharge.

*Dewatering* means the act of pumping ground water or stormwater away from an active construction site.

*Director* means the Director of the Washington Department of Ecology or his/her authorized representative.

*Discharger* means an owner or operator of any facility or activity subject to regulation under Chapter 90.48 RCW or the Federal Clean Water Act.

*Domestic Wastewater* means water carrying human wastes, including kitchen, bath, and laundry wastes from residences, buildings, industrial establishments, or other places, together with such ground water infiltration or surface waters as may be present.

*Engineered soils* The use of soil amendments including, but not limited, to Portland cement treated base (CTB), cement kiln dust (CKD), or fly ash to achieve certain desirable soil characteristics.

*Equivalent BMPs* means operational, source control, treatment, or innovative BMPs which result in equal or better quality of stormwater discharge to surface water or to ground water than BMPs selected from the SWMM.

*Erosion* means the wearing away of the land surface by running water, wind, ice, or other geological agents, including such processes as gravitational creep.

*Erosion and Sediment Control BMPs* means BMPs that are intended to prevent erosion and sedimentation, such as preserving natural vegetation, seeding, mulching and matting, plastic covering, filter fences, sediment traps, and ponds. Erosion and sediment control BMPs are synonymous with stabilization and structural BMPs.

*Final Stabilization* (same as *fully stabilized* or *full stabilization*) means the establishment of a permanent vegetative cover, or equivalent permanent stabilization measures (such as riprap, gabions, or geotextiles) which prevents erosion.

*Ground Water* means water in a saturated zone or stratum beneath the land surface or a surface water body.

*Injection well* means a "well" that is used for the subsurface emplacement of fluids. (see *Well*)

*Jurisdiction* means a political unit such as a city, town or county; incorporated for local self-government.

*National Pollutant Discharge Elimination System* (NPDES) means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring, and enforcing permits, and imposing and enforcing pretreatment requirements, under Sections 307, 402, 318, and 405 of the Federal Clean Water Act, for the discharge of pollutants to surface waters of the state from point sources. These permits are referred to as NPDES permits and, in Washington State, are administered by the Washington Department of Ecology.

*Notice of Intent* (NOI) means the application for, or a request for coverage under this general permit pursuant to WAC 173-226-200.

*Notice of Termination* (NOT) means a request for termination of coverage under this general permit as specified by Special Condition S10 of this permit.

*Operator* means any party associated with a construction project that meets either of the following two criteria:

1. The party has operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications; or
2. The party has day-to-day operational control of those activities at a project which are necessary to ensure compliance with a SWPPP for the site or other permit conditions (e.g., they are authorized to direct workers at a site to carry out activities required by the SWPPP or comply with other permit conditions).

*Outfall* means the location where storm water leaves the site. It also includes the location where storm water is discharged to a surface waterbody within a site, but does not include discharges to on-site stormwater treatment/infiltration devices or storm sewer systems.

*Permittee* means individual or entity that receives notice of coverage under this general permit.

*pH* means a liquid's acidity or alkalinity. A pH of 7 is defined as neutral. Large variations above or below this value are considered harmful to most aquatic life.

*pH Monitoring Period* means the time period in which the pH of stormwater runoff from a site shall be tested a minimum of once every seven days to determine if storm water is above pH 8.5.

*Point Source* means any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, and container from which pollutants are or may be discharged to surface waters of the state. This term does not include return flows from irrigated agriculture. (See fact sheet for further explanation.)

*Pollutant* means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, domestic sewage sludge (biosolids), munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste. This term does not include sewage from vessels within the meaning of Section 312 of the CWA, nor does it include dredged or fill material discharged in accordance with a permit issued under Section 404 of the CWA.

*Pollution* means contamination or other alteration of the physical, chemical, or biological properties of waters of the state; including change in temperature, taste, color, turbidity, or odor of the waters; or such discharge of any liquid, gaseous, solid, radioactive or other substance into any waters of the state as will or is likely to create a nuisance or render such waters harmful, detrimental or injurious to the public health, safety or welfare; or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses; or to livestock, wild animals, birds, fish or other aquatic life.

*Receiving Water* means the water body at the point of discharge. If the discharge is to a storm sewer system, either surface or subsurface, the receiving water is the water body that the storm sewer system discharges to. Systems designed primarily for other purposes, such as for ground water drainage, redirecting stream natural flows, or for conveyance of irrigation water/return flows that coincidentally convey storm water are considered the receiving water.

*Representative* means a stormwater or wastewater sample which represents the flow and characteristics of the discharge. Representative samples may be a grab sample, a time-proportionate *composite sample*, or a flow proportionate sample. Ecology's *Construction Stormwater Monitoring Manual* provides guidance on representative sampling.

*Sanitary Sewer* means a sewer which is designed to convey *domestic wastewater*.

*Sediment* means the fragmented material that originates from the weathering and erosion of rocks or unconsolidated deposits, and is transported by, suspended in, or deposited by water.

*Sedimentation* means the depositing or formation of sediment.

*Sensitive area* means a waterbody, wetland, stream, aquifer recharge area, or channel migration zone.

*SEPA* (State Environmental Policy Act) means the Washington State Law, RCW 43.21C.020, intended to prevent or eliminate damage to the environment.

*Significant Amount* means an amount of a pollutant in a discharge that is amenable to available and reasonable methods of prevention or treatment; or an amount of a pollutant that has a reasonable potential to cause a violation of surface or ground water quality or sediment management standards.

*Significant Concrete Work* means greater than 1000 cubic yards poured concrete or recycled concrete.

*Significant Contributor of Pollutants* means a facility determined by Ecology to be a contributor of a *significant amount*(s) of a pollutant(s) to waters of the state of Washington.

*Site* means the land or water area where any "facility or activity" is physically located or conducted.

*Source Control BMPs* means physical, structural or mechanical devices or facilities that are intended to prevent pollutants from entering storm water. A few examples of source control BMPs are erosion control practices, maintenance of stormwater facilities, constructing roofs over storage and working areas, and directing wash water and similar discharges to the sanitary sewer or a dead end sump.

*Stabilization* means the application of appropriate BMPs to prevent the erosion of soils, such as temporary and permanent seeding, vegetative covers, mulching and matting, plastic covering and sodding. See also the definition of Erosion and Sediment Control BMPs.

*Storm Drain* means any drain which drains directly into a *storm sewer system*, usually found along roadways or in parking lots.

*Storm Sewer System* means a conveyance, or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains designed or used for collecting or conveying stormwater). This does not include systems which are part of a *combined sewer* or Publicly Owned Treatment Works (POTW) as defined at 40 CFR 122.2.

*Stormwater* means that portion of precipitation that does not naturally percolate into the ground or evaporate, but flows via overland flow, interflow, pipes, and other features of a stormwater drainage system into a defined surface water body, or a constructed infiltration facility.

*Stormwater Management Manual (SWMM) or Manual* means the technical manual published by Ecology for use by local governments that contain descriptions of and design criteria for BMPs to prevent, control, or treat pollutants in stormwater.

*Stormwater Pollution Prevention Plan (SWPPP)* means a documented plan to implement measures to identify, prevent, and control the contamination of point source discharges of stormwater. The Permittee prepares a Stormwater Site Plan (SSP) and a Temporary Erosion and Sediment Control Plan (TESC). The contract requires the successful bidder to prepare a Spill Prevention, Control, and Countermeasures Plan (SPCC).

*Surface Waters of the State* includes lakes, rivers, ponds, streams, inland waters, salt waters, and all other surface waters and water courses within the jurisdiction of the state of Washington.

*Threshold Discharge Area (TDA)* is an on-site area draining to a single natural discharge location or multiple natural discharge locations that combine within ¼ mile downstream (as determined by the shortest flow path).

*Total Maximum Daily Load (TMDL)* means a calculation of the maximum amount of a *pollutant* that a waterbody can receive and still meet state water quality standards. Percentages of the total maximum daily load are allocated to the various pollutant sources. A TMDL is the sum of the allowable loads of a single pollutant from all contributing point and nonpoint sources. The TMDL calculations shall include a "margin of safety" to ensure that the waterbody can be protected in case there are unforeseen events or unknown sources of the pollutant. The calculation shall also account for seasonable variation in water quality.

*Treatment BMPs* means BMPs that are intended to remove pollutants from stormwater. A few examples of treatment BMPs are detention ponds, oil/water separators, biofiltration, and constructed wetlands.

*Transparency* means a measurement of water clarity in centimeters (cm), using a 60 cm. transparency tube. The transparency tube is used to estimate the relative clarity or transparency of water by noting the depth at which a black and white Secchi disc becomes visible when water is released from a value in the bottom of the tube. A transparency tube is sometimes referred to as a “turbidity tube.”

*Turbidity* is the clarity of water expressed as nephelometric turbidity units (NTU) and measured with a calibrated turbidimeter.

*Waste Load Allocation (WLA)* means the portion of a receiving water’s loading capacity that is allocated to one of its existing or future point sources of pollution. WLAs constitute a type of water quality-based effluent limitation (40 CFR 130.2(h)).

*Water Quality* means the chemical, physical, and biological characteristics of water, usually with respect to its suitability for a particular purpose.

*Waters of the State* includes those waters as defined as "waters of the United States" in 40 CFR Subpart 122.2 within the geographic boundaries of Washington State and "waters of the state" as defined in Chapter 90.48 RCW which include lakes, rivers, ponds, streams, inland waters, underground waters, salt waters, and all other surface waters and water courses within the jurisdiction of the state of Washington.

*Well* means a bored, drilled or driven shaft, or dug hole whose depth is greater than the largest surface dimension (see *Injection Well*).